

REMARKS

Claims 1–20 were pending and under examination. In the Office Action mailed September 11, 2006 the Examiner makes a Restriction Requirement, restricting pending claims 1–20 into the following eleven groups:

Group I. (Claims 1–4, and 11) drawn to a nucleic acid molecule, classified in class 536, subclass 23.1.

Group II. (Claims 8–10) drawn to kits containing antibodies, classified in class 530, subclass 350.

Group X. (Claims 17–19) drawn to a method of detecting a variant using protein based methods, classified in class 435, subclass 7.1.

Group XI. (Claim 20) drawn to a method of detecting a variant using nucleic acid based methods, classified in class 435, subclass 6.

In the Office Action of September 11, 2006 the Examiner asserts:

“7. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.” (Office Action of September 11, 2006, page 7.)

The Applicants elect, without traverse, to prosecute the claims of Group XI. In an amendment accompanying this response, the Applicants have cancelled Claims 1-11 in order to further their business interests and the prosecution of the present application. The Applicants reserve the right to prosecute the cancelled claims in Groups I – IX in one or more divisional applications.

The Examiner states that: “Claims 12-16 link(s) inventions in groups X and XI.” (Office Action of September 11, 2006, page 3), and that restriction between these groups will be withdrawn upon allowability of a linking claim. Where the requirement for restriction in an application is predicated upon nonallowability of generic or other type of

linking claims, the Applicants are entitled to retain in the application claims to the nonelected invention or inventions. MPEP 809. Accordingly, the claims of groups X- XI are maintained in the application. The linking claims must be examined with, and thus are considered part of, the invention elected. MPEP 809. Thus, linking claims 12-16 are maintained in the present application although they are not listed within any of Groups X- XI.

In the present Amendment and Response to Restriction Requirement mailed September 11, 2006 the Applicants have amended claim 20 of Group XI to recite “. . . wherein said detecting comprises detecting a variant MCFD2 nucleic acid sequence associated with said variant MCFD2 polypeptide.

In the Office Action of September 11, 2006 the Examiner asserts:

“Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.” (Office Action of September 11, 2006, page 8.)

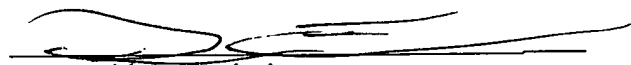
Because the species identified by the Examiner pertain only to claims 1-11 that are cancelled in the present Amendment and Response to Restriction Requirement mailed September 11, 2006, the Applicants believe that no species election is required in view of the cancellation.

CONCLUSION

Should the Examiner believe that a telephone interview would aid in the prosecution of this application, the Applicants encourage the Examiner to call the undersigned collect at (608) 218-6900.

Respectfully submitted,

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